

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 10, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)
Sen. Vicki Cocchiarella (D)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 76, 2/3/2003; HB 98, 1/25/2003;
HB 104, 1/20/2003

Executive Action:

{Tape: 1; Side: A}

HEARING ON HB 98

Sponsor: REPRESENTATIVE JOE MCKENNEY, HD 49, GREAT FALLS

Proponents: Jim Brown, Administrator of Business Standards Division, Department of Labor and Industry; Holly Franz, Montana Association of Certified Public Accountants; Steve Nelson, MRM Plumbing/Master Plumber; Roger Halver, Montana Association of Realtors; Jo Hawkins, Board of Plumbers

Opponents: J.D. Lynch, Montana State Building Association; Carl Schweitzer, Associated Plumbing and Heating Contractors of Montana; Don Halverson, Montana Plumbers and Pipefitters

Opening Statement by Sponsor:

REPRESENTATIVE JOE MCKENNEY, HD 49, GREAT FALLS, brought HB 98 at the request of the Department of Labor. It is a housekeeping bill revising laws relating to professional and occupational licensing.

Proponents' Testimony:

Jim Brown, Administrator of Business Standards Division, Department of Labor and Industry, provided written testimony in support of HB 98, **EXHIBIT**(bus50a01).

Holly Franz, Montana Association of Certified Public Accountants, rose in full support of the bill.

Steve Nelson, MRM Plumbing/Master Plumber, offered written testimony in support of HB 98, **EXHIBIT**(bus50a02).

Roger Halver, Montana Association of Realtors, strongly supported the bill.

Jo Hawkins, Board of Plumbers, supported HB 98 and provided written testimony, **EXHIBIT**(bus50a03).

Opponents' Testimony:

J.D. Lynch, Montana State Building Association, rose in opposition to the bill. He defied anyone who reads the bill to look at Sections 13 and 14 and say they are not substantive changes. He asked the committee to keep a housekeeping bill truly housekeeping.

Carl Schweitzer, Associated Plumbing and Heating Contractors of Montana, stood in opposition to Sections 13 and 14 of the bill. His board has looked at the bill and feels it is not just housekeeping. He asked the committee to sit down with his people later in the month, March 23, to talk with them about the bill.

Don Halverson, Montana Plumbers and Pipefitters, rose in opposition to the bill as now presented and asked the committee to support the amendments suggested by **Mr. Lynch**. Ownership has always meant that the person who had the master's license took out the permit. He was responsible for his employees' work in the plumbing field. Statute now states that a journeyman may only provide work under the direction of a master plumber unless otherwise permitted by the board. Administrative rules go on to clarify what that means.

Questions from Committee Members and Responses:

SEN. MIKE SPRAGUE asked **Mr. Brown** if the reason for his department's requesting the bill was the result of an audit. **Mr. Brown** answered that several of the board had audit citations and those citations were included in this bill; however, not all of the boards that are addressed in this bill are done so because of the audit. **SEN. SPRAGUE** wanted to know if the plumbing section was the result of an audit. **Mr. Brown** said it was not, which led **SEN. SPRAGUE** to want to know what was the problem. **Mr. Brown** stated that the problem is the interpretation of Section 37-69-305, Subsection 3, which says, "A master plumber may not allow his license to be used by any person or corporation or business other than his own for the purpose of obtaining permits to do plumbing work under his license." The board has felt, and the department agrees, that there is some confusion surrounding the part that says, "... other than his own ...". The interpretation of that section for the ten years that the Board of Plumbers was in the Building Codes Bureau was that meant the plumbing firm for which the master worked. **Mr. Brown** discussed a case in the Helena valley when a master plumber died and his widow could not continue to run the business.

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SEN. SPRAGUE asked **Mr. Schweitzer** if there is a problem that needs fixing; and, if so, what is the solution. **Mr. Schweitzer** felt that ownership has been an important part of being part of a plumbing firm. Ultimately, the responsibility fell to the master plumber. Part of the responsibility was to have the journeyman working under him. For health and safety, his members have always felt this read that there was an ownership interest. Therefore, that responsibility was melded together and that

master plumber had total responsibility for the work done and the ability to say, "You're doing it right. You're out of here."

SEN. CAROLYN SQUIRES asked **Mr. Halverson** for his response to the comments of **Mr. Brown**. He said he felt the problem is that there is an administrative group in Helena who doesn't want to enforce the law as it was intended. The point is that when we own that and directly responsible for whatever it is, a home or a car, for example, we take that responsibility and are accountable for it. If this law is changed, we will lose that concept. That's what is wrong. He brought this issue to the Board of Plumbers approximately ten years ago when an out-of-state plumber came in and did a job in Missoula on the university campus. That contractor was stopped from getting a permit by the state agency, but the problem was he found a way around it. As a result of that case, the Board of Plumbers changed the administrative rules to try and clarify the ownership issue.

CHAIRMAN DALE MAHLUM discussed with **Mr. Halverson** whether this bill would cause a loss of control over their industry and asked what would happen if a master plumber was hired by a big box company. **Mr. Halverson** said he would take out the permits. These larger stores are going to hire a master plumber to make it legitimate on the books. **CHAIRMAN MAHLUM** wanted to know what would happen if a customer bought a water heater from Home Depot and takes it home and does it himself. **Mr. Halverson** said he can do it so long as he does it according to code.

Closing by Sponsor:

REP. McKENNEY stated that the bill presented was intended to be a housekeeping bill. The folks that are affected by the changes in code have visited, have come to an agreement, and then take it to the legislature. After the bill was brought to **REP. McKENNEY**, there was some disagreement. He distributed some proposed amendments, **EXHIBIT(bus50a04)** (HB009801.aem), with the suggestion that the committee use them as they see fit.

HEARING ON HB 76

Sponsor: REPRESENTATIVE JOE McKENNEY, HD 49, GREAT FALLS

Proponents: Andy Poole, Department of Commerce; Dave Gibson, Governor's Office; Evan Barrett, Montana Economic Development Association (MEDA); Paul Tuss, Bearpaw Development Corporation of Northern Montana; Webb Brown, Montana Chamber of Commerce; **REP. BOB BERGREN**, HD 90, HAVRE

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE JOE McKENNEY, HD 49, GREAT FALLS shared that this bill is a policy change brought to the legislature at the request of the Department of Commerce.

Proponents' Testimony:

Andy Poole, Department of Commerce, went back to the early 1990's and gave some background and explained his proposed amendments, **EXHIBIT (bus50a05)**.

Dave Gibson, Governor's Office, was present to show the Governor's support of HB 76. He explained the one of the six things important to economic development in the state is organization. This is a small bill, but it's important, because it starts to organize the state towards success.

{Tape: 2; Side: A}

He continued on to share information with the committee on the steps toward economic development. He stated it is a matter of good policy to use the little money we have to encourage people to start cooperating on a regional level. The Governor's Office and the Department of Commerce are fully committed to working closely with the economic development organizations around the state to put this into law and evolve this legislation to something that will be workable to all the groups around the state. He urged passage of HB 76.

Evan Barrett, Montana Economic Development Association (MEDA), mentioned how important economic development is in the state. It is important because of the fiscal problems being experienced at this time. His organization represents every entity impacted by this legislation. You would think the smaller towns would be saying, "Don't do this!" However, with limited dollars, you have to do something smart with them. His organization is virtually unanimous in its support of this regionalization that is built into this plan. The Micro-Business Advisory Council also endorses this bill even though it substantially changes the way they are covered with this larger and broader economic development council. He closed by indicating that the Great Falls Chamber of Commerce representative was speaking at another hearing and asked **Mr. Barrett** to extend their support of the bill.

Paul Tuss, Bear Paw Development Corporation of Northern Montana and Montana Economic Developers Association, said this is not a typical economic development, but a great bill. The heart of it is regional development. He distributed a copy of Bear Paw's Annual Report for 2002 to show how a small, rural area could do so well, **EXHIBIT (bus50a06)**.

Webb Brown, Montana Chamber of Commerce, rose in support of the bill.

REP. BOB BERGREN, HD 90, urged the committee's concurrence with the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. SHERM ANDERSON asked **Mr. Poole** if his department has developed a chart showing these 12 regional groups would be located. **Mr. Poole** explained the way they developed this bill was by trying to figure out how many regional development corporations it would take to cover the geography of Montana. The location of the 12 has not yet been determined and will take place via the rule making process.

SEN. KELLY GEBHARDT discussed administrative costs and asked **Mr. Gibson** if anything had been done to lower those costs. **Mr. Gibson** answered that those costs have been reduced.

SEN. MIKE SPRAGUE directed his comments to **Mr. Gibson** who deferred to **REP. MCKENNEY**. He agreed with **SEN. SPRAGUE** that they could make the legislators voting members.

SEN. ANDERSON wanted to know who was in opposition to this concept and why. **Mr. Gibson** replied that there was a question from a tribal organization, and that was it.

Closing by Sponsor:

REP. MCKENNEY closed by saying he would be happy to work with any committee member who would carry the bill. He thanked the committee for a good hearing.

{Tape: 2; Side: B}

HEARING ON HB 104

Sponsor: REPRESENTATIVE BOB BERGREN, HD 90, HAVRE

Proponents: Claudia Clifford, State Auditor's Office; Tanya Ask, Blue Cross/Blue Shield; Sami Butler, Montana Nurses Association; Frank Cote, Health Insurance Association of America

Opponents: None

Opening Statement by Sponsor:

SENATOR BOB BERGREN, HD 90, HAVRE, brought before the committee HB 104 and distributed an outline of the bill from the State Auditor's Office, **EXHIBIT (bus50a07)**.

Proponents' Testimony:

Claudia Clifford, State Auditor's Office, brought the bill at the request of a number of smaller businesses. She explained the amendments to it suggested by the State Auditor's Office, **EXHIBIT (bus50a08)**

Tanya Ask, Blue Cross/Blue Shield, said this is a simple bill dealing with a very complex issue. The issue of underwriting, especially when you get to small business, is extremely complex. She said the idea of purchasing pools is a good idea. They were concerned there might be problems in the small group market and there might be problems with Montana's guarantee issue. As those laws in the '90's were moving forward, her organization was in favor of them. However, those laws requiring guarantee issue alone would not help with the cost of health insurance and that is definitely the case. They hope that, with the ability to pool, this will make health insurance more affordable for some groups. They also feel these amendments are very important in order to preserve the small group market for everyone who needs it.

Sami Butler, Montana Nurses Association, said most of her members are not insurance experts; however, they are expert at providing health care to Montanans. Part of their legislative platform is to make sure they are advocating for greater access to health care in Montana. That also means access to health insurance. She offered their support of this bill as one tool to help small businesses provide health insurance to their workers.

Frank Cote, Health Insurance Association of America, urged the committee to pass the bill with the amendments.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. MIKE SPRAGUE directed his question to **Claudia Clifford** regarding line 20 to 22. It seemed inconsistent with regard to the number of employees. **Ms. Clifford** thought that language said you can also accept large groups.

Closing by Sponsor:

REP. BERGREN stated this is a good bill brought forth by the State Auditor's office and asked the committee to concur in.

ADJOURNMENT

Adjournment: 10:27 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus50aad)